

**GIDEON KRACOV**

Attorney at Law

801 South Grand Avenue  
11th Floor  
Los Angeles, California 90017

(213) 629-2071  
Fax: (213) 623-7755

gk@gideonlaw.net  
www.gideonlaw.net

February 4, 2015

**VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Dennis Suggs  
President and CEO  
STRATEGIC MATERIALS, INC.  
WESTERN STRATEGIC MATERIALS, INC.  
16365 Park Ten Place Suite 200  
Houston, TX 77084

AGENT FOR SERVICE  
STRATEGIC MATERIALS, INC.  
WESTERN STRATEGIC MATERIALS, INC.  
NATIONAL CORPORATE RESEARCH, LTD.  
523 W 6th St., Ste 544  
Los Angeles, CA 90014

Salvador Ramirez  
STRATEGIC MATERIALS, INC.  
WESTERN STRATEGIC MATERIALS, INC.  
7000 Bandini Bl.  
Commerce, CA 90040

Salvador Ramirez  
STRATEGIC MATERIALS, INC.  
WESTERN STRATEGIC MATERIALS, INC.  
915 National Av., #A  
Hayward, CA 94545

**Re: Notice of Violations and Intent to Sue Under the Federal Water Pollution Control Act**

Dear Mr. Suggs and Mr. Ramirez:

I am writing on behalf of East Yard Communities for Environmental Justice ("EYCEJ") with regard to flagrant violations of the Federal Water Pollution Control Act (the "Clean Water Act" or "Act") that EYCEJ believes are occurring at Strategic Materials, Inc./Western Strategic Materials, Inc.'s facility located at 7000 Bandini Bl. in Commerce, California 90040 ("Facility"). Environmental stewardship at the site is a disgrace. Huge, fifteen foot high piles of filthy

Notice of Violations and Intent to File Suit



crushed glass and metal at the Facility literally spill through a beaten up chain link fence and out onto the sidewalk. Thousands of drivers a day on the I-5 Freeway can see this too – the Facility is a blight on the City of Commerce and the environment. When it rains, EYCEJ is informed and believes that contaminated stormwater pours off these open-air glass and metal piles and directly into Bandini Bl., and then ultimately into the San Gabriel River. Here is photograph of the Facility dated last week taken from Bandini Bl:



EYCEJ is an environmental health and justice not for profit organization headquartered at 2317 Atlantic Bl., Commerce, California 90040. <http://eycej.org/about/contact-us/>. EYCEJ has members living in the community adjacent to the Facility and the San Gabriel River Watershed. EYCEJ and its members are deeply concerned with protecting the environment in and around their communities, including the San Gabriel River Watershed. It cares about the City of Commerce and the environment. *You, as a recycling company, should too.* But you need to do far better at the Facility. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as “Strategic”).

This letter addresses Strategic’s unlawful discharge of pollutants from the Facility through the Los Angeles County Flood Control District storm system which discharges into the San Gabriel River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System (“NPDES”) Permit No. CA S000001, State Water Resources Control Board (“State Board”) Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter “General Permit”).<sup>1</sup> The WDID identification number for the Facility listed on

---

<sup>1</sup> On April 1, 2014, the State Board reissued the General Permit, continuing its mandate that industrial facilities implement the best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”) and, in addition, establishing numeric action levels mandating additional pollution control efforts. State Board Order 2014-



documents submitted to the Regional Water Quality Control Board, Los Angeles Region ("Regional Board") is 4 19I012612. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Strategic is hereby placed on formal notice by EYCEJ that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, EYCEJ intends to file suit in federal court against Strategic under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

## **I. Background.**

The State Board approved Strategic's Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI"). Specialty has certified that the Facility is classified under SIC Code 5093 ("scrap and waste recycling"). The Facility collects and discharges storm water from its 3-acre industrial site into at least two storm drain outfalls located at the Facility (but there are surely more including the driveways on the SE and NE property lines adjacent to the sidewalk). On information and belief, EYCEJ alleges that industrial activities at the site include glass and metal crushing, processing and transfer. On information and belief, EYCEJ alleges that storm water discharges from the Facility contain storm water that is commingled with runoff from the Facility from areas where industrial processes occur and/or where materials are stored. The outfalls discharge into the Los Angeles County Flood Control District storm system which discharges into the San Gabriel River.

The Regional Board has identified beneficial uses of the San Gabriel River and established water quality standards for it in the "Water Quality Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties", generally referred to as the Basin Plan. See [http://www.waterboards.ca.gov/losangeles/water\\_issues/programs/basin\\_plan/basin\\_plan\\_documentation.shtml](http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.shtml). The beneficial uses of these waters include, among others, municipal and domestic supply, groundwater recharge, water contact recreation, non-contact water recreation, warm freshwater habitat, and wildlife habitat. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking,

---

0057-DWQ. The new permit, however, does not go into effect until July 1, 2015. Until that time, the current General Permit remains in full force and effect.



beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.” *Id.* at 2-2. Contact recreation use includes fishing and wading. *Id.* Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people’s use of the San Gabriel River for contact and non-contact water recreation and commercial and sport fishing.

The Basin Plan includes a narrative toxicity standard which states that “[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life.” *Id.* at 3-16. The Basin Plan includes a narrative oil and grease standard which states that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.” *Id.* at 3-11. The Basin Plan provides that “[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* at 3-16. The Basin Plan provides that “[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use.” *Id.* at 3-8. The Basin Plan provides that “[w]aters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* at 3-9.

The Basin Plan also provides a chemical constituent standard that “[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use. Water designated for use as Domestic or Municipal Supply (MUN) shall not contain concentrations of chemical constituents in excess of the limits specified in the following provisions of Title 22 of the California Code of Regulations which are incorporated by reference into this plan: Table 64431-A of Section 64431 (Inorganic Chemicals)...” *Id.* at 3-8. The Basin Plan provides a Maximum Contaminant Level (“MCL”) for aluminum of 1 mg/L.

The EPA 303(d) List of Water Quality Limited Segments lists Reach 2 of the San Gabriel River, the segment from where the Facility’s storm water discharges, as impaired for lead. *See* [http://www.epa.gov/waters/tmdl/docs/final\\_sangabriel\\_metalstmdl\\_3-27-07.pdf](http://www.epa.gov/waters/tmdl/docs/final_sangabriel_metalstmdl_3-27-07.pdf) at 48. The Basin Plan contains additional water quality standards for the San Gabriel River in an amendment setting forth Total Maximum Daily Loads (“TMDLs”).<sup>2</sup> For General Industrial Storm Water permittees, the Basin Plan sets forth interim wet-weather concentration-based waste load allocations (“WLAs”) that have been enforceable conditions for dischargers since July 13, 2006. For Reach 2, five of 58 samples exceeded the chronic lead criterion, which indicates impairment requiring a TMDL. *See* [http://www.epa.gov/waters/tmdl/docs/final\\_sangabriel\\_metalstmdl\\_3-27-07.pdf](http://www.epa.gov/waters/tmdl/docs/final_sangabriel_metalstmdl_3-27-07.pdf), at 15. The numeric target for lead in Reach 2 was therefore set at 166 ug/L or 0.166 mg/L. *Id.* at 19.

---

<sup>2</sup> *See*

[http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/docs/rb4sangabriel/rb4\\_res\\_r06\\_014.pdf](http://www.waterboards.ca.gov/water_issues/programs/tmdl/docs/rb4sangabriel/rb4_res_r06_014.pdf)



The EPA has adopted freshwater numeric water quality standards for zinc of 0.120 mg/L (Criteria Maximum Concentration – “CMC”), for copper of 0.013 mg/L (CMC) and for lead of 0.065 mg/L (CMC). 65 Fed.Reg. 31712 (May 18, 2000) (California Toxics Rule).<sup>3</sup>

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”).<sup>4</sup> The following benchmarks have been established for pollutants discharged by Strategic: pH – 6.0 – 9.0 standard units (“s.u.”); total suspended solids (“TSS”) – 100 mg/L; oil and grease (“O&G”) – 15 mg/L; chemical oxygen demand (“COD”) – 120 mg/L; zinc – 0.20 mg/L; lead – 0.182 mg/L; copper – 0.025 mg/L; aluminum – 0.75 mg/L; and iron – 1.0 mg/L.<sup>5</sup>

## II. Alleged Violations of the Clean Water Act and the General Permit.

### A. Discharges in Violation of the Permit not Subjected to BAT/BCT

Strategic has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General

---

<sup>3</sup> These values for zinc, copper and lead are also hardness dependent, and correspond to a total hardness of 100-125 mg/L, which is the default listing in the California Toxics Rule.

<sup>4</sup> The Benchmark Values can be found at:  
[http://www.epa.gov/npdes/pubs/msgp2008\\_finalpermit.pdf](http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf) and  
<http://cwea.org/p3s/documents/multi-sectorrev.pdf>.

<sup>5</sup> Data shows median hardness at approximately 200 mg/L for the San Gabriel River Reach 2, which is the receiving water for Strategic’s discharges.  
[http://www.swrcb.ca.gov/water\\_issues/programs/tmdl/docs/303dlists2006/comments/jonathan\\_bishop\\_a.pdf](http://www.swrcb.ca.gov/water_issues/programs/tmdl/docs/303dlists2006/comments/jonathan_bishop_a.pdf)  
Accordingly, since the benchmark level for zinc, lead and copper are hardness-dependent, the numbers listed here are based on a water hardness range of 175-200 mg/L [CaCO<sub>3</sub>].



Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations. Receiving Water Limitation C(2) of the General Permit prohibits storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. *See Baykeeper v. Int'l Metals Ekco, Ltd.*, 619 F.Supp.2d 936, 945 (C.D. Cal. 2009).

*Strategic has discharged and continues to discharge storm water with unacceptable levels of TSS and aluminum in violation of the General Permit. Moreover, its BMPs are virtually non-existent and it has failed to test for mandatory parameters including copper, lead, iron and zinc. Its sampling locations are not compliant with the General Permit. Huge, fifteen foot high piles of crushed glass and metal at the Facility literally spill through a beaten up chain link fence and out onto the sidewalk. Trucks track contaminated sediment onto Bandini Bl. When it rains, EYCEJ is informed and believes that contaminated stormwater pours off the glass and metals, right into Bandini Bl., and then into the San Gabriel River. This is perhaps the most obvious and blatant violation of stormwater rules one can witness in all of Regional Board 8.*

Strategic's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit: February 28, 2014 TSS at outfalls #1 and #2 at 103 mg/L and 238 mg/L in excess of EPA benchmark of 100 mg/L and February 28, 2014 aluminum at outfalls #1 and #2 at 1.71 mg/L and 1.8 mg/L in excess of Basin Plan MCL of 1.0 mg/L and EPA benchmark of .75 mg/L. The information reflects data gathered from Strategic's self-monitoring during the 2013-2014 wet seasons. EYCEJ alleges that during each of those rainy seasons and continuing through today, Strategic has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks. *See Baykeeper v. Int'l Metals Ekco, Ltd.*, 619 F.Supp.2d 936, 945 (C.D. Cal. 2009) ("There can be no reasonable dispute that the Benchmarks are relevant to the inquiry as to whether a facility implemented BMPs"); *Waterkeepers Northern California v. AG Industrial Mfg. Inc.*, 375 F.3d



913, 919 n.5 (9th Cir. 2004) (plaintiff appropriately pointed to EPA benchmark values “as evidence to support its claim that [the defendant] failed to implement adequate BMPs”).

But this is just the tip of the iceberg of violations at your Facility. *A compliant monitoring program of all outfalls and mandatory parameters would show numerous chronic violations of the Basin Plan, CMCs, WLAs, EPA Benchmarks, General Permit and BMP and SWPPP requirements.*

EYCEJ’s investigation, including its review of Strategic’s analytical results documenting pollutant levels in the Facility’s storm water discharges well in excess of applicable water quality standards and EPA’s benchmark values, indicates that Strategic has not implemented BAT and BCT at the Facility for its discharges of TSS, aluminum, zinc, iron, copper and lead in violation of Effluent Limitation B(3) of the General Permit. Strategic was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Strategic is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. EYCEJ alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since February 4, 2010 and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which EYCEJ alleges that Strategic has discharged storm water containing impermissible levels of TSS, aluminum, zinc, iron, copper and lead in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.<sup>5</sup>

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Strategic is subject to penalties for violations of the General Permit and the Act since February 4, 2010.

***B. Failure to Sample and Analyze for Mandatory Parameters***

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations. General Permit, Section B(5)(a). “Facility operators shall collect storm water samples during the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season.” *Id.* “All storm water discharge locations shall be sampled.” *Id.* “Facility

---

<sup>5</sup> The rain dates are all the days when an average of 0.1” or more rain fell as measured by a weather station located in Long Beach, approximately 18 miles away from the Facility. The weather data can be obtained at <http://www.ipm.ucdavis.edu/WEATHER/SITES/losangeles.html> (Last accessed on February 2, 2015).



operators that do not collect samples from the first storm event of the wet season are still required to collect samples from two other storm events of the wet season and shall explain in the Annual Report why the first storm event was not sampled.” *Id.*

Collected samples must be analyzed for TSS, pH, specific conductance, and either TOC or O&G. *Id.* at Section B(5)(c)(i). Facilities also must analyze their storm water samples for “[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities. *Id.* at Section B(5)(c)(ii). Certain SIC Codes also must analyze for additional specified parameters. *Id.* at Section B(5)(c)(iii); *id.*, Table D. A facility within SIC Code 5093, including Strategic, must analyze each of its storm water samples for zinc, copper, lead, iron, and aluminum. *Id.*, Table D (Sector N).

EYCEJ’s review of Strategic’s storm water monitoring data indicates that you have failed to analyze for zinc, copper, lead and iron in each and every storm water sample taken at the Facility.

These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Strategic is subject to penalties for violations of the General Permit and the Act since February 4, 2010.

**C. *Failure to Develop and Implement an Adequate Monitoring and Reporting Program***

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the “quality and quantity of the facility’s storm water discharges from the storm event.”

The above-referenced data was obtained from the Facility’s monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by Strategic is not representative of the quality of the Facility’s various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, EYCEJ alleges that the Facility’s monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

EYCEJ alleges that Strategic failed to sample and analyze storm water discharges from representative outfalls. *Fifteen foot high piles of filthy crushed glass at the facility literally spill through a beaten up chain link fence and out onto the sidewalk.* When it rains, EYCEJ is informed and believes that contaminated stormwater pours off these glass piles and directly into the street, and then into the San Gabriel River.



The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Strategic is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since February 4, 2010.

***D. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan***

Section A and Provision E(2) of the General Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)).

EYCEJ's visit to the site as well as review Strategic's Annual Reports indicate that Strategic has been operating with an inadequately developed and implemented SWPPP in violation of the requirements set forth above. Strategic has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Anyone who sees this site can see that the SWPPP and BMPs are inadequate. Tracking of contaminated sediment also occurs from trucks



existing to Bandini Bl. Strategic has been in continuous violation of Section A and Provision E(2) of the General Permit every day since February 4, 2010, at the very latest, and will continue to be in violation every day that Strategic fails to prepare, implement, review, and update an effective SWPPP. Strategic is subject to penalties for violations of the Order and the Act occurring since February 4, 2010.

***E. Failure to File True and Correct Annual Reports***

Section B(14) of the General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the last five years, Strategic and its agent, Salvador Ramirez, inaccurately certified in its Annual Report that the Facility was in compliance with the General Permit. Consequently, Strategic has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Permit every time Strategic failed to submit a complete or correct report and every time Strategic or its agents falsely purported to comply with the Act. Strategic is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since at least February 5, 2010.

**III. Persons Responsible for the Violations.**

EYCEJ puts Strategic, Salvador Ramirez, and Dennis Suggs on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, EYCEJ puts Strategic on notice that it intends to include those persons in this action.

**IV. Name and Address of Noticing Parties.**

The name, address and telephone number of EYCEJ is as follows:

Mark Lopez  
EYCEJ  
2317 Atlantic Bl.  
Commerce, CA 90040  
323-263-2113

**V. Counsel.**

EYCEJ has retained counsel to represent it in this matter. Please direct all communications to:



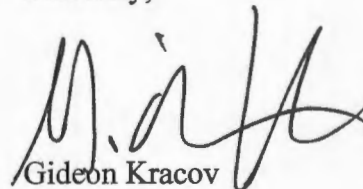
Gideon Kracov  
Law Office of Gideon Kracov  
801 S. Grand Avenue, 11th Floor  
Los Angeles, CA 90017  
gk@gideonlaw.net  
213-629-2071

**VI. Penalties.**

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Strategic to a penalty of up to \$37,500 per day per violation. In addition to civil penalties, EYCEJ will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

EYCEJ believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. EYCEJ intends to file a citizen suit under Section 505(a) of the Act against Strategic and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, EYCEJ would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, EYCEJ suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. EYCEJ does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Gideon Kracov



Strategic Materials, Inc.  
February 4, 2015  
Page 12 of 12

**SERVICE LIST**

Gina McCarthy, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Thomas Howard, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Eric Holder, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Jared Blumenfeld, Regional Administrator  
U.S. EPA – Region 9  
75 Hawthorne Street  
San Francisco, CA, 94105

Samuel Unger, Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 West Fourth Street, Suite 200  
Los Angeles, CA 90013



**ATTACHMENT A**  
**Rain Dates, Strategic Materials, Commerce, California**

2/5/2010	3/21/2011	12/13/2012
2/6/2010	3/23/2011	12/24/2012
2/15/2010	3/25/2011	12/26/2012
2/19/2010	3/27/2011	12/29/2012
2/23/2010	5/17/2011	1/24/2013
2/27/2010	10/4/2011	1/25/2013
3/6/2010	10/5/2011	2/8/2013
4/5/2010	11/4/2011	2/19/2013
4/12/2010	11/6/2011	3/8/2013
10/6/2010	11/12/2011	5/6/2013
11/20/2010	11/20/2011	5/7/2013
12/10/2010	12/12/2011	11/29/2013
12/17/2010	1/21/2012	12/19/2013
12/18/2010	1/23/2012	2/6/2014
12/19/2010	2/15/2012	2/27/2014
12/20/2010	2/27/2012	2/28/2014
12/21/2010	3/17/2012	3/1/2014
12/22/2010	3/18/2012	4/1/2014
12/23/2010	3/25/2012	4/2/2014
12/24/2010	4/10/2012	4/25/2014
12/26/2010	4/11/2012	11/30/2014
12/27/2010	4/13/2012	12/2/2014
1/30/2011	4/25/2012	12/3/2014
2/16/2011	4/26/2012	12/12/2014
2/18/2011	7/25/2012	12/17/2014
2/19/2011	11/29/2012	1/10/2015
2/25/2011	11/30/2012	1/11/2015
2/26/2011	12/2/2012	
3/20/2011	12/3/2012	